



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,529	05/25/2001	Alan B. McEwen	COVAL-118XX	4229

207 7590 05/14/2003

WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

EXAMINER

WEINER, LAURA S

ART UNIT	PAPER NUMBER
----------	--------------

1745

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

HG

Office Action Summary

Application No.

09/866,529

Applicant(s)

MCEWEN ET AL.

Examiner

Laura S Weiner

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 1-24, 38 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-28, 31-34 and 37 is/are rejected.
- 7) ☒ Claim(s) 29, 30, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: |

Art Unit: 1745

DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of Group V, claims 25-37 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the process of claims 38-39 can be used to produce no other products. Inventions V and VI are related as process of making and product made. The inventions are distinct if either of the following can be shown: that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)) such was given in the last office action and in addition claim 39 cites 3 different method steps that could be used to process the mixture. Also, this is not found persuasive because searching for would require two independent and separate searches such as searching for Group V, claims 25-37 in class 429 subclass 303 and searching for Group VI, claims 38-39 in class 429 subclass 305 .

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-24, 38-39 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 6.

Art Unit: 1745

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25-28, 31-34, 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Green et al. (WO 98/11619).

Green et al. teaches in pages 1 and 2, a molten salt electrolyte for a battery where the molten salt electrolyte incorporating a nitrogen containing cation, such as imidazolium or pyridinium; polymers such as acrylate polymers, polyalkenes such as polyfluorinated compounds or copolymers, etc; a metal salt comprising an alkali metal or alkaline earth metal and an organic solvent. Polymers include polymethylmethacrylate, polyvinylidene fluoride, polyvinylidene-hexafluoropropylene co-polymers, etc. Green et al. teaches on page 3, that the organic solvents include dimethylformamide, tetrahydrofuran, etc. and organic plasticisers such as propylene carbonate, diethyl carbonate, etc. Green et al. teaches on pages 8-9 claims 9-10, that the metal salt comprises lithium, sodium, potassium, magnesium and calcium salt and the anions of the metal salt comprises borates, phosphates, etc.

Art Unit: 1745

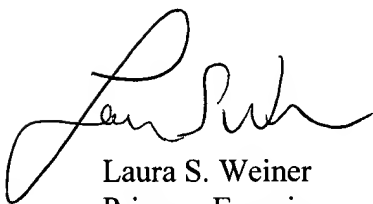
Allowable Subject Matter

5. Claims 29-30, 35-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner works a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (703) 308-2383. The fax phone number for non-after finals is 703-872-9310 and the fax phone number for after-finals is 703-872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Laura S. Weiner
Primary Examiner
Art Unit 1745
May 12, 2003